Simon v. Adzilla, Inc [New Media] et al

IN THE UNITED STATES DISTRICT COURT

FOR THE NORTHERN DISTRICT OF CALIFORNIA

SAN JOSE DIVISION

The Facebook, Inc., et al.,

Plaintiffs,

v.

ConnectU, Inc., et al.,

Defendants.

_____________________________________/

NO. C 07-01389 JW

ORDER DENYING MOTION TO SHORTEN TIME RE: NON-PARTIES' MOTION TO INTERVENE; SETTING ACCELERATED BRIEFING SCHEDULE

Presently before the Court is non-parties Tyler Winklevoss, Divya Narendra, and Cameron Winklevoss' (collectively, "Non-Parties") Motion to Intervene. (Docket Item No. 574.) The Non-Parties have also filed a Motion to Shorten Time to have their Motion to Intervene heard and decided on August 1, 2008. (Docket Item No. 573.)

The Non-Parties contend that their Motion to Shorten Time must be granted because Federal Rule of Appellate Procedure 4, the deadline to file an appeal in this case is August 1, 2008. The Court DENIES the Non-Parties' Motion to Shorten Time since the motion was filed just three days before the requested hearing date and the parties to the action have not had sufficient time to respond. The Court issued its Judgment on July 2, 2008. The Non-Parties have had over 25 days to make their motion for intervention but elected to wait until the final hour to file their motion. The parties to the action must be provided sufficient time to respond.

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However, the Court notes that should the Court grant the Non-Parties' request to intervene, Rule 4(a)(5) provides that, as parties to the case, they may file a motion to extend the deadline in which to appeal within thirty days of August 1, 2008 for good cause shown. Moreover, the Non-Parties represent that Defendant ConnectU will be filing a notice of appeal on August 1, 2008. If that is the case, Rule 4(a)(3) provides that "any party may file a notice of appeal within 14 days after the date the first notice was filed."

While the Court has determined that it would benefit from further briefing on the issue of intervention so as to avoid prejudicing the parties in this case, the Court is sensitive to the strict time limits for filing a notice of appeal set by the Federal Rules. Accordingly, the Court sets an accelerated briefing schedule with respect to Non-Parties' Motion to Intervene as follows:

(1) On or before **July 31, 2008**, the Non-Parties shall file and serve a "pleading which sets out the claim or defenses for which intervention is sought" as required by Federal Rule of Civil Procedure 24(c).

(2) Any opposition to the Non-Parties' Motion to Intervene shall be filed on or before **August 4, 2008**. No reply shall be filed.

(3) The hearing on Non-Parties' Motion to Intervene is set for **August 6, 2008 at 4:30 p.m.**

Dated: July 30, 2008

JAMES WARE
United States District Judge

United States District Court
For the Northern District of California

THIS IS TO CERTIFY THAT COPIES OF THIS ORDER HAVE BEEN DELIVERED TO:

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Dated: July 30, 2008

Richard W. Wieking, Clerk

By: /s/ JW Chambers
Elizabeth Garcia
Courtroom Deputy